

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----  
ACCESS 4 ALL, INC. and  
NELSON M. STERN,

Plaintiffs,

v.

FEE PETITION  
IN SUPPORT OF A MOTION  
FOR ATTORNEY FEES  
BY DISMISSED DEFENDANT,  
JERRY HEIMAN

ULSTER HEIGHTS PROPERTIES, INC.,

07-CV-2923(LBS)

Defendants.  
-----

Dismissed defendant, Jerry Heiman, by his attorney, Aba Heiman, Esq. (CV appended), hereby petitions for counsel fees pursuant to 42 U.S.C. § 12205 under the Americans with Disabilities Act [the “ADA”] and itemizes services rendered as follows:

<u>Date</u>	<u>Services</u>	<u>Time</u> <sup>1</sup>
04/25/07	received service of Summons & Complaint – reviewed	15
04/29/07	find <i>Access 4 All, Inc. v. HI 57 Hotel, LLC</i> on Westlaw and reviewed	15
04/30/07	research ADA provisions, check Orange County website, Judge’s rules & discuss with Jerry	60
05/05/07	compose Answer & Affidavit of Service	85
05/07/07	e-file Answer	10
05/09/07	call from Mr. Bacon (of Fuller, Fuller & Assoc.) rec’d & rev’d e-mail with attachments from Mr. Bacon (proposed stipulation and amended complaint)	10 15
05/10/07	research & then respond via e-mail to Mr. Bacon declining to join stip (because it still names Heiman brothers as defendants), note he has until 5/27/07 to amend without consent or leave per Fed.R.Civ.Proc. 15(a), & cite <i>Foman v. Davis</i> , 371 U.S. 178 (1962) to indicate that if he seeks to amend thereafter, we’ll oppose as amendment would be futile (since Heiman brothers are wrong defendants)	30
05/11/07	e-mail from Mr. Bacon with attached amended complaint sent to SDNY	5
05/15/07	rec’d ECF notification of filing of Amended Complaint rec’d from Mr. Bacon copy of Order For Initial Pre-Trial Conference with cover letter suggesting no	5

<sup>1</sup> Time is initially shown in minutes, rounded to the nearest 5 minutes.

	further action by Heiman should be necessary	5
05/20/07	rev'd Amended Complaint & drafted Answer to Amended Complaint	25
05/22/07	drafted Affidavit of Service	5
	e-filed Answer to Amended Complaint	10
06/18/07	drafted Initial Disclosures with Affidavit of Service	30
06/25/07	e-mail from Mr. Bacon with attached stip for dismissal	5
06/26/07	research/find <u>Christianburg</u> case and its progeny, explain request for atty fees, including why action against Heiman brothers was groundless and how amended complaint just compounded the error, made good faith offer to settle issue of fees (all in e-mail to Mr. Bacon)	95
06/27/07	e-mail from Mr. Bacon declining to settle fee issue, arguing that plaintiff's belief that the Heiman brothers were proper parties	5
	My responsive e-mail that in addition to our inability to settle the fee issue, we also disagreed as to terms of the proposed dismissal (plaintiff wanted without prejudice, Heiman brothers wanted with prejudice)	5
	rec'd fax from Mr. Bacon with results of their title search (same as was sent to him with Heiman brothers Initial Disclosures)	5
06/28/07	rev'd Motion to Dismiss off of ECF	5
07/05/07	drafted and e-filed Response to Motion to Dismiss with Aff of Service	30
07/06/07	spoke with "Jeannie" & Alexandro from Chambers re: conf.	10
	fax from Mr. Bacon of letter to Ct req to appear by telephone	5
07/10/07	e-mail to Mr. Bacon to confirm teleconference	5
07/23/07	prep for & teleconf with Mr. Bacon & Judge & write-up	15
07/24/07	rec'd/rev'd endorsed memo via ECF from Judge allowing dismissal without prejudice but with leave for Heiman to seek counsel fees upon resolution of the action	5
11/07/07	rec'd via ECF Mr. Bacon's req to appear by telephone for conference of 11/20/07	5
12/05/07	rec'd via ECF Clerk's Cert of Default by Ulster Heights Properties, Inc.	5
12/16/07	research/draft motion/petition/affirmation/memo/aff-svc for counsel fees	<u>255</u>
	Total Minutes	780
	Total Hours	13
	Hourly Rate	\$300
	Requested Fee	\$3,900

Respectfully Submitted,

/s/

Aba Heiman, Esq. (AH 3728)